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SERVICE DATE - AUGUST 8, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-534 (Sub-No. 2X)

LAKE STATE RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN ALPENA AND
PRESQUE ISLE COUNTIES, MI

Decided: August 5, 2003

On May 22, 2000, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Michigan Department of Natural Resources (MIDNR) to negotiate an interim trail use/rail banking agreement with Lake State Railway Company (Lake State) for a portion of Lake State's Huron Subdivision (the main line) extending northward from the U.S. Highway 23 crossing in Alpena (milepost 125.2) to the end of the main line just north of Metz, MI (milepost 151.25), and Lake State's entire Rogers City Branch extending northward from a point on the main line at Posen, MI (milepost 141.8), to Rogers City, MI, ending at RCB milepost 11.5, a distance of 37.55 miles, in Alpena and Presque Isle Counties, MI. The negotiating period under the NITU was extended by decisions served on November 17, 2000, May 4, 2001, December 18, 2001, May 17, 2002, November 8, 2002, and May 23, 2003. The negotiating period is scheduled to expire on November 3, 2003.

In the May 23, 2003 decision, the NITU negotiating period was extended, at the request of Lake State, only for the portion of Lake State's Huron Subdivision extending northward from the U.S. Highway 23 crossing in Alpena (milepost 125.2) to the end of the main line just north of Metz, MI (milepost 151.25), and Lake State's Rogers City Branch extending northward from a point on the main line at Posen, MI (milepost 141.8), to Rogers City, MI, ending at milepost 6.7. The decision excluded from the NITU the portion of the right-of-way extending from milepost 6.7 to milepost 11.5 on the Rogers City Branch and stated that Lake State may fully abandon that portion, subject to meeting the conditions imposed in the May 22, 2000 decision.

By letter filed on July 23, 2003, Lake State requests the Board to modify the May 23, 2003 decision once again to include interim trail use/rail banking for the portion of the right-of-way extending from milepost 6.7 to milepost 11.5 on the Rogers City Branch. It states that, in light of recent changes in the circumstances relating to its intended disposition of this portion of the right-of-way, it now wishes to continue negotiations with MIDNR for the entire line. It states that it has not consummated abandonment of this portion of the right-of-way or any other portion of the line.

The request is reasonable. Accordingly, Lake State's request to modify the NITU to include the portion of the right-of-way extending from milepost 6.7 to milepost 11.5 on the Rogers City Branch will be granted.¹

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Lake State's request to modify the May 23, 2003 decision is granted.
2. The May 23, 2003 decision is modified to include interim trail use/rail banking for the portion of the right-of-way extending from milepost 6.7 to milepost 11.5 on the Rogers City Branch.
3. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

¹ Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction to extend the NITU negotiating period. See Rail Abandonments – Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Central Kansas Railway Limited Liability Company – Abandonment Exemption – in Barton, Ellsworth and Rice Counties, KS, STB Docket No. AB-406 (Sub-No. 7X) (STB served Jan. 11, 2000).